IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 532 OF 2007

Mohammad Amin Mohd. Yunus
Ansari and others .... Petitioner

versus

Smt. Raisa Banu Mohd. Yunus
Ansari and others ..... Respondent.

Shri S.U.Dhakephalkar for the petitioner

CORAM; A.P. DESHPANDE, J.
DATED; 4TH JULY, 2007

P.C.;

1. The present petitioners are original plaintiffs who filed a suit for partition and separate possession of the suit property, claiming that the respondents/defendants are their relations. The defendants have denied the relationship and the plaintiff's right to claim the share in the property. Admittedly the property is in possession of the defendants. The petitioners moved an application for appointment of Receiver. The said application was opposed by the defendants and an undertaking was given before the trial court that they will not alienate, transfer and/or create any third party interest and maintain statuesque till final adjudication and disposal of the suit. In view of the said undertaking

and in view of the fact that the petitioner failed to establish that the suit property was in danger of being wasted, the court has rejected the application. The first Appellate Court has concurred with the view taken by the trial court.

2. Perused the order. The same does not call for any interference at the hands of this court. The learned counsel for the petitioner at this stage submits that the respondents have committed breach of undertaking given to the court. If this be so, it shall be open for the petitioner to move the trial court by making appropriate application in that regard. With this clarification the writ petition is summarily disposed of.

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